



Journal of the Senate

Number 3—Special Session D

Friday, April 5, 2002

CONTENTS

Call to Order	370, 372
Moment of Silence	371
Remarks	370, 371, 372
Resolutions	370

CALL TO ORDER

The Senate was called to order by President McKay at 10:00 a.m. A quorum present—38:

Mr. President	Geller	Pruitt
Brown-Waite	Holzendorf	Rossin
Burt	King	Sanderson
Campbell	Klein	Saunders
Carlton	Latvala	Sebesta
Clary	Laurent	Silver
Constantine	Lawson	Smith
Cowin	Lee	Sullivan
Crist	Meek	Villalobos
Diaz de la Portilla	Miller	Wasserman Schultz
Dyer	Mitchell	Webster
Futch	Peaden	Wise
Garcia	Posey	

Excused: Senators Dawson and Jones

PRAYER

The following prayer was offered by Wallace Brown, an employee in the Senate Sergeant at Arms Office:

Dear God: Help us to know that all we have and are, is a gift from you.

Thank you for friendships we have enjoyed with the Senators and staff over the years.

May the members of this great Senate respond to the needs of the citizens of Florida with much thought and care. Guide them in making wise choices for the future of this state. Give them the energy needed to complete the work before them and the courage to follow wherever you lead. Amen.

PLEDGE

Senate Sergeant at Arms Donald Severance led the Senate in the pledge of allegiance to the flag of the United States of America.

ADOPTION OF RESOLUTIONS

On motion by Senator Sullivan, by the required constitutional two-thirds vote of the membership the following resolution was admitted for introduction outside the purview of the Governor's call:

On motion by Senator Sullivan, by unanimous consent—

By Senator Sullivan—

SR 8-D—A resolution expressing the sorrow of the Senate at the death of Richard Dale Hickam.

WHEREAS, the Florida Senate, with deep regret, was informed of the death of Richard Dale Hickam, Deputy Staff Director of the Senate Appropriations Subcommittee on Education, and

WHEREAS, Dale Hickam served the Florida Senate with integrity and distinction for 22 years as a staff member of its education and finance committees, and

WHEREAS, it is most appropriate that the Florida Senate respectfully commemorate the untimely passing of a beloved staff member, NOW, THEREFORE,

Be It Resolved by the Senate of the State of Florida:

That this legislative body does pause in its deliberations to pay its respects to Richard Dale Hickam and the Florida Senate in session assembled does record this testimonial of esteem and bereavement:

IN MEMORIAM

RICHARD DALE HICKAM

Richard Dale Hickam was born in Kingsport, Tennessee, and graduated in 1968 from New College in Sarasota, Florida. Following graduate studies and work as a researcher at Columbia University in New York City, Dale came to Tallahassee at the express request of Senator Jack Gordon to assist the Florida Legislature in crafting the Florida Education Finance Program. Dale was widely recognized in the field of education funding and his knowledge was valued throughout the state. In addition to his work with the Legislature, he served as a consultant and researcher for the Ford Foundation and the Education Commission of the States. Richard Dale Hickam will be remembered for his abilities as a teacher, his boundless energy, and his deep love of people.

BE IT FURTHER RESOLVED that a copy of this resolution, signed by the President of the Senate, with the Seal of the Senate affixed, be transmitted to Vincent Hickam, brother of Richard Dale Hickam, as a tangible token of the sentiments expressed in this Resolution and as a lasting symbol of the respect of the members and staff of the Florida Senate.

—was introduced out of order and read by title. On motion by Senator Sullivan, **SR 8-D** was read the second time in full and adopted.

REMARKS

On motion by Senators King and Rossin, the following remarks were ordered spread upon the Journal:

Senator Sullivan: Today, let us give thanks to God for having given Dale Hickam to us for 54 years. Dale died peacefully in his sleep and we should give thanks to God for granting this good man a peaceful transition to a better existence. Dale was taken from us too early, at a time when he had much more to give to the Senate and the people of Florida. We are hurt by this loss and we grieve for our loss.

Yesterday, around noon, at the conference committee, I turned to Phil Twogood and asked him whether Dale was coming up for the meeting. What is important about that is that it was the third time during the morning that I had done a similar thing. "I have to tell Dale this," or "I need to ask Dale that," or "Tell Dale to find out about something." As a matter of fact, the last time I saw Dale was during the debate on the code rewrite. We were talking about the appeals process for charter schools and I asked Dale, who was sitting right there, almost oblivious to our activities, no doubt pondering some new project, "How many appeals are there a year?" He said he did not know and with a flourish headed for the phone. A few minutes later he held up his hands and indicated eight.

Of course, I asked him how many were granted and he was off again with the information.

We carried on and life seemed normal. That was the last time I talked to him.

Dale joined the Senate in October 1980. He had graduated from New College and had gone from there to New York where he got his master's degree and completed the Ph.D. program. He was working with Education Commission of the States. He had done a great deal of work on funding formulas for the State of New York and Senator Jack Gordon recruited him. After joining our team he spent the remainder of his life, 22 years, working for the Senate and the State of Florida.

Just a year ago, Dale was given the responsibility of interviewing people for a position with the Senate Appropriations staff. The final candidates were all qualified but as he explained to me, he was hiring someone who would be a part of the Appropriations family. Dale loved his work, his coworkers and would only settle for some worthy person who would become part of his and our family.

Now Dale was a man of opinions. Those opinions were the result of a well-trained mind working at the behest of a driven believer. Discussions had to be begun carefully and only after you had allowed him to fully explain what this matter was all about. Dale knew the system, the practitioners of budgeting, he knew the players and all of the ploys and deceptions that are practiced.

His diligence was legendary. One summer he spent the entire summer manipulating figures to find out who were the winners and losers under our FEFP. Reams, and piles of paper would be on his desk. I was afraid to ask him how things were going because I knew I would have to sit through a presentation filled with BSAs, various efforts, and all the other verbiage associated with the FEFP. Of course, I always asked.

Dale's legacy was the Florida Excellent Teaching Program. As a graduate student, Dale had worked with Dr. James Kelly who later developed the National Board Certification for Teachers. Dale approached then-chairman, Senator Jim Horne, and proposed a program for certifying teachers in Florida and the rest is history. Mr. President, I would ask that when we return for the next special session, that I am allowed to file a bill naming the Florida Excellent Teachers Program, the Dale Hickam Florida Excellent Teachers Program.

I have lost a good friend. Without realizing it, I had grown so used to his help and encouragement that I took it for granted. I would like to say "Thank you" at least one more time and I am sure that the entire body feels the same way. I do not understand why such a young man was taken from us when he had so much more to give, but on behalf of the Senate I thank God for having given Dale to us for 22 years.

I would ask at this time that the Senate rise and that we have a moment of silence in memory of a great man.

MOMENT OF SILENCE

Senator Sullivan asked that the Senate observe a moment of silence in memory of Dale Hickam who passed away on April 4.

"Then I called upon the name of the Lord: O Lord, I beseech thee, deliver my soul. Return unto thy rest, O my soul; for the Lord has dealt bountifully with thee."

On motion by Senator Brown-Waite, by the required constitutional two-thirds vote of the membership the following resolution was admitted for introduction outside the purview of the Governor's call:

On motion by Senator Brown-Waite, by unanimous consent—

By Senator Brown-Waite—

SR 6-D—A resolution commemorating the life of Alfred A. McKethan of Hernando County.

WHEREAS, Alfred A. McKethan, Brooksville native, philanthropist, and Florida Gator booster was a fourth-generation Floridian who exerted great influence in banking, road planning, and citrus, and

WHEREAS, Mr. McKethan started working in his father's bank at age 15 and later boasted that he had done every job in the bank before being appointed the youngest president of the Florida Bankers Association at age 38, and

WHEREAS, Alfred McKethan's many accomplishments included: heading the State Road Board that brought about the original Sunshine Skyway, helping to choose a site for Eckerd College, and serving as the first chairman of the Southwest Florida Water Management District board, and

WHEREAS, Mr. McKethan was active in the Florida Bankers Association, serving as its president in 1946-47 and, during 20 years as its legislative liaison, guiding the formation of state and federal banking laws, and

WHEREAS, he contributed generously of his wealth to the county hospital and the public library, to Pasco-Hernando Community College, and to the University of Florida, which named its baseball stadium for him, and

WHEREAS, he had the ear of Presidents and Governors and was honored by Governor Lawton Chiles and the Cabinet in 1994 for a lifetime of service to the state, and

WHEREAS, he was a founder of Florida Citrus Mutual, the giant grower cooperative established in 1954, and

WHEREAS, Mr. McKethan successfully sought to create the Southwest Florida Water Management District and was the first chairman of the district's governing board, and

WHEREAS, he enjoyed a 71-year career at his family's bank, retiring in 1994 from the institution originally called Hernando State Bank and later SunBank and Trust Co., part of SunTrust Banks, Inc., and

WHEREAS, he was noted for hosting spirited gatherings of his family and friends at his homes in Brooksville and Bayport, as well as for his legendary generosity and his business and political acumen, and

WHEREAS, his active and accomplished life came to an end on April 1, 2002, at age 93 in the county that he loved so well and served so effectively, NOW, THEREFORE,

Be It Resolved by the Senate of the State of Florida:

That the Florida Senate pays its respect to Alfred A. McKethan as, in the words of Senator Bob Graham, "a giant in the generation that built modern Florida" and expresses its condolences to his daughter Mary Celia Buckner, to his sister Dorothy Mason, and to his grandchildren and great-grandchildren.

BE IT FURTHER RESOLVED that a copy of this resolution, with the Seal of the Senate affixed, be presented to Mary Celia Buckner and the family of Alfred McKethan as a token of the sentiments expressed herein.

—was introduced out of order and read by title. On motion by Senator Brown-Waite, **SR 6-D** was read the second time in full and adopted.

REMARKS RELATING TO THE CONFERENCE COMMITTEE REPORT ON HB 1-D

The President recognized Senator Villalobos, Chairman of the Committee on Education, to discuss and answer questions regarding the Conference Committee Report on **HB 1-D**, the education bill.

SENATOR BURT PRESIDING

THE PRESIDENT PRESIDING

RECESS

On motion by Senator Rossin, the Senate recessed at 11:27 a.m. to reconvene at 12:30 p.m.

AFTERNOON SESSION

The Senate was called to order by the President at 12:15 p.m. A quorum present—38:

Mr. President	Geller	Pruitt
Brown-Waite	Holzendorf	Rossin
Burt	King	Sanderson
Campbell	Klein	Saunders
Carlton	Latvala	Sebesta
Clary	Laurent	Silver
Constantine	Lawson	Smith
Cowin	Lee	Sullivan
Crist	Meek	Villalobos
Diaz de la Portilla	Miller	Wasserman Schultz
Dyer	Mitchell	Webster
Futch	Peaden	Wise
Garcia	Posey	

MOTION

On motion by Senator Lee, the Senate reconvened instantler.

REMARKS RELATING TO THE CONFERENCE COMMITTEE REPORT ON HB 1-D

By direction of the President, the following remarks were ordered spread upon the Journal:

Senator Villalobos: Thank you, Mr. President. Members, for the last few months I have been working very long hours to create an education code that you would all be proud of and I think we have done that. I think the Senate voted unanimously on the Senate package and sent it over to the House because there was a lot of open discussion. There was a lot of open debate. There was a lot of exchange of good ideas, some bad ideas, and some good ideas. I have told you that all along. The product that we would have before us now, the entire rewrite, is several things.

The Senate language put together over 900 pages to make sure that, based on the 1998 constitutional amendment where we needed to make some changes, the education system could continue to function and we have done that. It is also because of some of the reorganizational issues with the Cabinet, with the change from the Board of Regents, and the University System. We need to make a lot of changes to allow that to continue to happen, and the Senate has done that.

However, there are also some other issues that are very important to some of my colleagues in here. They are more than colleagues, they are good friends of mine. I tried to be open and up front with them on all the issues and I think I have done that.

With that in mind, Mr. President, this is a very good product with one very divisive issue. I believe that it would be in the best interest of this Senate, of the people of Florida, and also for our friendship amongst my colleagues here, to give us an opportunity to take that section out that deals with the religious freedoms so that our Jewish friends here could also have an opportunity to express their opinions and so that we not, perhaps, look like we are trampling on their ideas. Mr. President, I would like, at some point, to have an opportunity to do that. I still stand by the product that we have created. I believe I have been consistent when I have told everybody in this process that I believe the best thing to do was not to have that language in the bill to begin with.

President McKay: Senator from the 37th, we are indebted to you for your many, many long hours of hard work. It is unfortunate that one issue in an 1800-page bill becomes as divisive as it has become. As you have said, we are cognizant of the views of all members of this Senate.

When it became apparent that we were going to have a problem today in this chamber, I asked the Senator from the 23rd and the Senator from the 8th to convey that to the members of the House of Representatives, specifically, the Speaker. Let me call on the Senator from the 23rd, and if he would like to join him, the Senator from the 8th, to explain my request to them and the events that unfolded.

Senator Lee: Thank you, Mr. President. Senators, this morning, as the President said, it became apparent that we had some real problems with the Conference Report, among the members of this Senate that might have well, in fact, definitely did, put the Conference Report in jeopardy. We have, as best I could tell, nowhere near the 21 votes needed to pass the Conference Report. This morning we found ourselves in sort of an unusual situation. We felt that it was important, given the precedent that was in front of us here that we have full disclosure and communication with our colleagues in the House of Representatives, knowing that they were on the floor working on the Conference Report, so that they could govern themselves accordingly with the full knowledge of the problems that we were going to have in the Senate, should they send that Conference Report back to us.

The President requested that Senator King and I go down and communicate that to the House leadership, and we did so. We presented them with all of the knowledge they needed to govern themselves accordingly and to assist us in trying to get our job done.

Senator King: Thank you, Mr. President. Members, not to be redundant on what the Senator from the 23rd has already said, this morning when I walked into this chamber wearing the hat of Majority Leader, many members, not only the Democrats, but a lot of the Republican members as well, came and were complaining vehemently over the fact that there were some inclusions in the Conference Report that they could not support and would not support. It became very apparent as we walked around that we did not have the 21 votes that were necessary to pass the Conference Report. One of the things that was determined was, perhaps if we could amend out the objectionable language, we would still have a Conference Report. We could still send it back to the House. The House could determine whether they wished to take it or not.

That seemed to us to be the more logical and conclusive way to handle a problem that showed that we were not going to pass that Conference Report in this chamber with that language in it. The Senate President, in a very open and animated discussion with the Senator from the 23rd and myself, said, "Well, what should we do to tell the House what we're doing?" It was determined by the Senate President that we would be the two envoys that would go down and talk about the dilemma that we faced; being open and above board as to what was happening and what was going on in our own chamber. We did so. We came up with a whole bunch of different ideas—they could amend it out of their bill, send it to us, we would pass it, send it back to them. We would take it out of our bill, send it back to them. We would take it out of our bill, send it to them. They would take it up, send it to us, or either one of the two of us could do it and sine die if they wished to.

They asked, they said, "We don't want to jump to quick judgment. Give us some time. We'll be back in touch with you." To my knowledge, the last I heard from them was when they sine died.

That is certainly within their purview, and those of us who have served in the House before remember when the Senate did it to us. That is not a new precedent. It is just that we are at a position where there is nobody to send it to. If we amended it, we would have no place to send it to. Their message to us is, more or less, I guess, we would have to read it, take it or leave it.

I want you to understand that we went down there in open, good faith. The House was appreciative, Mr. President. They thanked us for coming down and giving them the heads up. I don't think that there was any indication with them that they thought that we were bluffing or that this was a joke. We certainly felt very strongly that we did not have the 21 votes and, Mr. President, the rest is what everybody knows about right now.

Senator Silver: First of all, I would like to thank the Senator from the 37th for his remarks, as well as the Senator from the 23rd and the Senator from the 8th.

I just want to—I don't want to call it a correction—but I do want to make the public aware that this is just not a Jewish issue. Several members, not of the Jewish faith, have come to me, have indicated their problems with it, also. I just wanted to make sure that everyone throughout the state knows that this is just not a Jewish issue that is being presented here. It is also important to recognize that what we are talking about here is an institutional problem as well as a substantive issue; that is, how we handle our institutions in this state. If we allow something like this to happen in a Conference Report where it's of such a

controversial nature, it may not be affecting you now, but the next time it may affect you. I think it is the institutional perspective that has to be also recognized when we talk about how we are going to operate as a Senate and as a House.

I thank you, Mr. President, for the opportunity to say that.

Senator Geller: Thank you, Mr. President. I had an impassioned speech, which I will not give. I wanted to just do two things. One, to express my personal thanks to the Senator from the 37th. Perhaps more importantly, I wanted to say, as I am standing here right now, after 14 years in the Legislature on both sides of the body, how proud I am to be a member of this collegial body and how proud I am to be a member of the Florida Senate.

Senator Rossin: I just want to reemphasize what some people have said. The Senator from the 37th has done an incredible job. What you have been able to do, Senator, is to keep the integrity of this body in place. That is so important, not just for us here in this body, but for generations to come. I want to thank you for it. It has been an outstanding effort on your part in many different ways. This is certainly one of them and I wanted to convey that on the Senate floor, Mr. President.

Senator Klein: Senators, as a member of the Conference Committee, in working with the other four members from the Senate, last night was a difficult night because this issue that we are talking about this morning came up in the context of agreed-upon late. It was very difficult for me and others whom I had spoken to in this Senate. What happened this morning is something that I would like to thank everyone who took an interest in what really is a very important issue to many Floridians from across this state. That is to make sure that we take legislation that will, as we all know, be seriously scrutinized by the courts, make sure we handle it properly with full public debate. That has been a tradition in this Senate and I would like to thank all the members who gave that the consideration it needed. Also, I want to thank the Senator from the 37th, once again, for his leadership. I know we are going to come back. We will pass a Reviser's Bill. Hopefully, it will have all the right things in it. We will come back and do it the right way. Thank you, Mr. President, also, for allowing this to proceed the way it did this morning with this outcome.

Senator Wasserman Schultz: Thank you, Mr. President. Senators, I have been a close friend of the Senator from the 37th for 10 years now. I can tell you—and you know the comments I made on the floor the other day—about the pride that I have in serving in this institution. I can tell you that I went to sleep last night with some of my faith shaken as a member of the institution, and some of my faith shaken in my friendship with the Senator from the 37th.

I just want you to know that in the 10 years that I have known the Senator from the 37th, in the 10 years that I have known Alex, he has been a man of principle. He has been a man who has always stood up for what he believed in. He has been a man of steel. I know our friendship. I should have had more faith in it. I could not be more proud of him today. My faith is renewed in the institution, in my friendship with him, and I look forward to coming back and putting together a product that we can all support and have faith in. Thank you, Mr. President.

Senator Campbell: Senators, with Senator Silver from the 38th, I just want to echo what he said. This is not a Jewish issue. This is far from just being whether you are a Jew, Catholic, Christian, or whatever religion you belong to. This is an issue that I think Senator Brown-Waite debated so perfectly this morning. It is about issues of religion that will affect all of us. This is a good bill, except for about 15 pages. This is not a Reviser's Bill. This is a lot of substantive language. It would have unintended consequences which I think would have affected everybody's personal liberties in this body. I do not want my son going to school and having someone try to tell him that Satan is the person you should be praying to, or the entity, or whatever you want to call Satan, the Evil Spirit. That's what this bill would have allowed.

I believe very strongly that all citizens of Florida should be thankful for this body, for this Senate President, for the leadership. I do thank Senator King this morning, and Senator Lee, for everything you did in stopping a bad bill from becoming law. I want to thank you, Mr. President. You did the right thing. Thank you for allowing my comments.

Senator Villalobos: Thank you, Mr. President. I think I've said most of what I needed to say. Like I said earlier, I think we have a good product before us, but for some issues. I told you that all along. When I was asked on the floor, when I was explaining the bill earlier today, whether or not I thought the religious items in the bill was a good idea, I answered you very directly. My answer was no, and I stand by that. I think, at the end of the day, by not going forward, we will have a better product. Mr. President, with that said, I move we adjourn sine die.

CORRECTION AND APPROVAL OF JOURNAL

The Journal of April 3 was corrected and approved.

ADJOURNMENT

On motion by Senator Villalobos, the Senate in Special Session adjourned sine die at 12:46 p.m.